lessee. See *Swords* v. *Eager*, 59 N. Y. 28; *House* v. *Metcalf*, 27 Conn. 630. Statutes requiring buildings to be provided with fire escapes impose a duty unknown to the common law. *Jones* v. *Granite Mills*, 126 Mass. 84, 30 Am. Rep. 661. Under the facts of the present case, it would seem to be the better rule, to place the duty of providing fire escapes upon the lessor and not upon the lessee, since such an improvement is one of a permanent nature, and it has been so held. *Landgraf* v. *Kuh*, 188 Ill. 484, 59 N. E. Rep. 501.

The principal case however finds support in the construction of similar statutes in Ohio and Pennsylvania, where the lessor has been relieved from liability and the whole duty, in the absence of contract, held to rest upon the lessee. *Schott* v. *Harvey*, 105 Pa. St. 222, 51 Am. Rep. 201; *Lee* v. *Smith*, 42 Ohio St. 458, 51 Am. Rep. 839.

MASTER AND SERVANT—FELLOW SERVANT—MASTER'S DUTY—DELEGATION OF DUTY.—While testing a new machine which was attached to other machinery, the defendant's superintendent ordered the speed of the engine to to be increased without first detatching the other machinery. As a result of the increased speed an emery wheel attached to the other machinery burst and killed one of the laborers. In an action against the company for damages for for the death of the laborer, *Held*, the act of the superintendent in increasing the speed of the engine without detaching the machinery was the negligent act of a vice principal for which the defendant was liable. *Skelton et al* v. *Pacific Lumber Co.* (1903),— Cal. —, 74 Pac. Rep. 13.

The court holds that the question, whether one is the fellow servant of another is to be determined by the nature of the act which caused the injury without regard to the rank or grade of the servants. It was the duty of the defendant to see that the machinery was reasonably safe, and if the master delegate such a duty to the greatest or the least of his servants, such servant, in discharging that duty, is a vice principal—he is in the master's shoes. The courts are not in accord as to the proper test for the fellow servant relation, but the one applied in the principal case is approved in several courts of this country. *Jenkins* v. *Richmond & D. R. Co.*, 39 S. C 507; *Mann* v. *Delaware & H. Canal Co* , 91 N. Y. 495; *Wooden* v. *Western N. Y. & P. R. Co.*, 147 N. Y. 508; *Norfolk & Western R. Co.*,v. *Donelly*, 88 Va. 853; *Baltimore & Ohio R. Co.* v. *Baugh*, 149 U. S. 368; *New England R. Co.* v. *Conroy*, 175 U. S. 323; *Vartanian* v. *New York, N. H & H. R. Co.* (1903), —R. I.—, 56 Atl. Rep. 184; *Coal Creek Min. Co.* v *Davis*, 90 Tenn. 711; *Jackson* v. *Norfolk & Western R. Co.*, 43 W. Va. 380, 46 L. R. A. 337 and notes; *Van Derhoff* v. *New York Cent. & H. R. R. Co.* (1903), 84 N. Y. Supp. 650; 2 JAGGARD ON TORTS, 1043. See 2 MICHIGAN LAW REVIEW 79. For a discussion of the fellow servant doctrine in England see Pollock on Torts (6th ed.), p. 95 et. seq.

MASTER AND SERVANT—INJURIES TO SERVANT—FELLOW SERVANTS—BRAKEMAN AND CONDUCTOR.—The conductor of a construction train ordered the brakeman to make a coupling in a defective manner. While obeying this order the brakeman was injured. In an action against the railroad company for the injury, *Held*, the plaintiff could recover. *Grout et al.* v. *Tacoma Eastern R. Co.* (1903),—Wash —, 74 Pac. Rep. 665.

One of the defenses was that the brakeman and conductor were fellow servants, but the court held that they were not fellow servants, so as to charge the brakeman with the conductor's negligence. The decision is based upon the "superior servant" rule as was the earlier case of *Northern Pacific R. Co.* v. *O'Brien*, 1 Wash. 599. This doctrine finds its ablest support in Ohio and Kentucky. *Little Miami R. Co.* v. *Stevens*, 20 Ohio, 415; *Cleveland C.*